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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/748,705      | 12/22/2000  | Timothy Ray Martin   | KCC-15,365.1        | 4547             |

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EXAMINER

JACKSON, ANDRE L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/748,705

Applicant(s)

MARTIN ET AL.

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16. 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 13, 27-40 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 1,638,073 to Van Heusen. Van Heusen discloses a fastener comprising a loop component (2) including a loop backing (4) and a plurality of loops protruding from it, with a first portion of the loop backing and a second portion of the loop backing attached to one another to form a cavity (pocket); and a hook component (3) including a hook backing (6) and a plurality of hooks (coarse filaments) protruding from it, wherein a portion of the hook component fits into the cavity of the loop component.

Referring to claims 7-11, 13, 33-40 and 42, Van Heusen discloses that various garments or wearing apparel can be used in combination with the fastener including shirts and underwear. See column 2, line 104 and column 5, lines 50-55. Moreover, Van Heusen (Figs. 3, 7, 8, 9 and 12) shows several embodiments of the fastener incorporating various sizes and shapes where the angle defined by the cavity of the receiving element is about 1 to 45 degrees between the backing portions.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Heusen. Van Heusen discloses that the contact filaments (coarse hook material or pile threads) can be used interchangeably on the hook component or the loop component (col. 5, lines 4-13), thus constituting a reversal of parts/components well known within the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the fastener of Van Heusen to incorporate opposite or interchangeable contact filaments to provide a garment or article providing maximum resistance to accidental disengagement.

Claims 12, 25 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Heusen in view of USPN 5,775,967 to Lacoursiere et al. Van Heusen discloses an array of garments that can feature the fastener device but Van Heusen does not disclose a swimwear garment among the array of garments. Lacoursiere et al teaches a diaper swim vest-floating device. The vest comprising left and right suspender panels (16, 17) integrally formed with a front panel (15) that wraps around the lower part of a baby's body forming a pant which holds the baby in place and a support panel (11) that supports a baby's head. Adjustable hook and loop fastener tabs are disposed at ends of the suspender and pant panels to secure the baby in various comfort positions which can be lengthened to accommodate a growing baby when engaging in water activities. Therefore, it would have been obvious to one having ordinary skill in the art at

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the time of applicant's invention to modify the fastener of Van Heusen to be included in the diaper swim suit as taught by Lacoursiere et al to provide an adjustable swim suit to secure a baby in various comfort positions which can be lengthened to accommodate a growing baby when engaging in water activities.

### **Response to Applicant's Arguments**

Applicant's arguments filed in Amendment B on February 7, 2003 have been fully considered but they are not persuasive. In response to applicant's arguments and amendment to claims 1-3, 14-16 and 27 USPN 1,638,073 to Van Heusen has been cited which anticipates the limitations of applicant's claims. Accordingly, claims 1- 11, 13-24, 26-40 and 42 are rejected as being unpatentable over Van Heusen. Claims 12, 25 and 41 are rejected as being unpatentable over Van Heusen in view of Lacoursiere et al.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

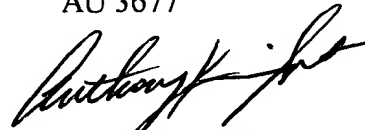
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (703) 308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1018.

ALJ  
July 14, 2003

André L. Jackson  
Patent Examiner  
AU 3677



**Anthony Knight**  
**Supervisory Patent Examiner**  
**Group 3600**